

9 July 2012

Mr Andrew Tyrie MP  
Chairman of the Treasury Committee  
House of Commons  
Committee Office  
7 Millbank  
London  
SW1P 3JA



Thank you for your letter dated 4 July 2012 requesting copies of documents that Barclays received from the Financial Services Authority (FSA) in September 2010 and early 2012.

It would appear that the documents you have requested relate to questions put to Mr. Diamond at the start of last Wednesday's evidence session and based on extracts from confidential documents sent by the FSA to Barclays. It would also appear that the information fed to the Committee was not entirely accurate.

You will understand that we consider it to be essential that there is a mechanism for a free and open, but confidential, exchange of information between a bank and its regulator. It is, therefore, important that confidential correspondence such as the documents you have requested remain confidential between both parties. Otherwise, there is a risk that the ability of regulators to provide direct feedback and challenge to the banks they regulate is seriously undermined, which would not be in the interests of financial stability.

In these exceptional circumstances, however, I am happy to provide the documents requested to the Committee in confidence in order to set the record straight. The Committee should also see my response to Adair Turner dated 18 April 2012. I enclose, therefore, the following documents:

1. Letter from Hector Sants, Chief Executive of the FSA dated 15 September 2010;
2. Letter from Adair Turner, Chairman of the FSA dated 10 April 2012; and
3. Letter from Marcus Agius to Adair Turner dated 18 April 2012.

You will appreciate, however, that there are instances where the documents requested touch on matters of a commercially sensitive nature and on issues that are not relevant to the Committee's immediate inquiry. We have, therefore, redacted those sections but have been restrained in so doing.

I would like to clarify two points in particular:

1. In the oral evidence with Bob Diamond on 4 July, you asked whether Mr. Diamond was aware of a written submission by the FSA to the Board, at the time of his appointment, setting out the need for an improvement in the corporate governance and culture of Barclays and a requirement to look better at how Mr. Diamond was assessing risk appetite and calling for improvements to the control framework.

As you will see from the enclosed letter from the FSA, dated 15 September 2010, the FSA approved the bank's application for Mr. Diamond to be Barclays Group CEO. The FSA made it clear that they wanted an increased level of engagement from Mr. Diamond with regulators in the UK and globally and that they would want him to be based in the UK. (This reflects the fact that he was, at that time, based in New York and that, until then, he had naturally not had as much engagement with the FSA as would be expected on his assuming the role of CEO). They also wanted to ensure that independent challenge to those reporting to him was provided by Mr. Diamond in his role as Group CEO. Neither of these desires can fairly be interpreted as expressions of concern about his appointment.

Furthermore, as at 10 September 2010 the FSA investigation into Barclays LIBOR submissions was ongoing. The FSA had been informed by the bank of the trader requests, the actions of the bank during the financial crisis and the instructions to submitters after Mr. Diamond's conversation with the Bank of England. These matters were not raised by the FSA at that time as casting doubt on his suitability as CEO.

There is a paragraph in the letter detailing the FSA's emphasis on the CEO setting the right culture, risk appetite and control framework across the organisation. These are areas of focus that you would expect the FSA to require any CEO to have in mind – there was no suggestion that these expectations were particular to Mr. Diamond either in the letter or in any discussions that were had between the Board and the FSA at the time. Most significantly, there was no request for assurances from the Board that there should be a change of culture at Barclays.

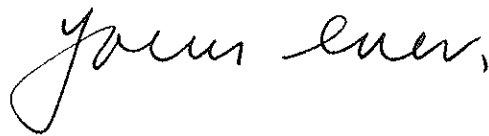
2. You also asked whether the FSA had attended the Barclays board meeting in February 2012 and said that "...trust had broken down between the FSA and Barclays..." and "...that they no longer have confidence in your senior executive management team..." Neither of these statements were made by the FSA officials who attended our Board meeting.

You will see from the enclosed letter to the bank from Adair Turner, dated 10 April 2012, that there had been an exchange of views between the FSA and the Board, with the result that there was an exchange of correspondence between Barclays and the FSA. Robust expressions of particular concerns by a regulator in relation to regulated institutions take place in the normal course and do not of themselves merit the conclusion that there has been a breakdown of trust. You will see, however, from my reply, that Barclays accepted the importance of Lord Turner's comments and undertook to act upon them.

Finally, as at February 2012 not only was the FSA fully aware of the misconduct in relation to LIBOR but it had interviewed Bob Diamond and other senior executives. There was no suggestion by the FSA that it had any concern about Barclays culture in 2012 in relation to those matters or about the suitability of Bob Diamond as CEO.

There is, therefore, no basis to either statement.

Thank you for giving me the opportunity to provide the Committee with this information and to set the record straight. I look forward to providing oral evidence to the Committee tomorrow.

A handwritten signature in black ink, appearing to read "James Lewis".A handwritten signature in black ink, appearing to read "Marcus".

Marcus Agius  
Chairman

# Financial Services Authority

From Hector Sants  
Chief Executive



Mr Marcus Agius  
Chairman  
Barclays Group Plc  
One Churchill Place  
Canary Wharf  
London  
E14 5HP

15 September 2010

A handwritten signature in dark ink, appearing to read 'J. Marcus'.

## **THE APPLICATION FOR BOB DIAMOND TO PERFORM CONTROLLED FUNCTIONS 3, GROUP CHIEF EXECUTIVE OFFICER FOR BARCLAYS BANK PLC**

As you are aware, we recently interviewed Bob Diamond as part of our review of your regulatory application to appoint him as Barclays Group CEO.

The purpose of our SIF regime is two-fold: firstly, to assess the suitability of an individual's competence to undertake a role; secondly, to ensure that an appropriately robust and rigorous appointment process is undertaken by the firm.

The FSA has approved the application; however an integral part of our approval process is to set out any appropriate issues we expect the Board to address in its ongoing governance and oversight of Bob Diamond in his role as Group CEO.

We of course acknowledge that some of the issues set out below have already been identified by the Board:

1. The FSA expects Bob Diamond to continue to develop a close, open and transparent relationship with his regulators both here in the UK and globally. It has already been identified that this will require an increased level of engagement from Bob Diamond and we have made our expectation known to him. As discussed, we would also expect Bob to be based in the U.K.
2. The succession plan announced in respect of Barclays Capital has Jerry Del Missier and Rich Ricci as Co-Chief Executives. We will want to seek ongoing assurance that this managerial structure remains effective. We will also require that there is appropriate clarity in oversight and responsibilities and that independent challenge is provided by Bob Diamond in his role as Group CEO.

3. As you would expect, we place considerable emphasis on the CEO setting the right culture, risk appetite and control framework across the entire organisation. It is essential that a prudent balance is struck, in delivering the group's financial and strategic objectives and desirable consumer outcomes; alongside consideration of broader reputational risks for the group.

4. You have identified Bob Diamond's relative lack of direct retail banking experience notwithstanding his role on both the Group Executive and Board. We appreciate the depth of other Executive Committee members relevant experience but will look to be satisfied that the required focus on the retail banking business and consumer outcomes is maintained by him.

Please feel free to contact me should you wish to discuss any of these points in greater detail.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'H. Sants', written in a cursive style.

**Hector Sants**

# Financial Services Authority

From the Chairman  
Adair Turner



Marcus Agius  
Chairman  
Barclays Bank PLC  
One Churchill Place  
London  
E14 5HP

10 April 2012

Our Ref: CW

Dear Marcus

As promised, this letter follows up our recent meeting and sets out FSA concerns relating to aspects of Barclays' approach to regulatory and other issues.

Obviously where we have specific areas of concern which merit it, our Supervisory Team will directly make those concerns known at the appropriate level, and require any appropriate action in response. The purpose of my meeting with you was therefore not to focus on any one specific issue which requires remedial action. Rather I wished to bring to your attention our concerns about the cumulative impression created by a pattern of behaviour over the last few years, in which Barclays often seems to be seeking to gain advantage through the use of complex structures, or through arguing for regulatory approaches which are at the aggressive end of interpretation of the relevant rules and regulations. Andrew Bailey also expressed these concerns at your Board meeting on 9<sup>th</sup> February.

The specific examples which I mentioned at our meeting included two examples which I accept are 'old news', but also four relating to recent events.

## Old news

I cited two examples.

- The development of the Protium structure in 2009 which, although not delivering Barclays any regulatory capital advantage, and while within accounting rules, was perceived by many external commentators as a convoluted attempt to portray a favourable accounting result.
- The approach to the valuation of monoline CVA positions which became apparent in FSA analysis in early 2009, and which showed Barclays choosing valuations clearly at the aggressive end of the acceptable spectrum.

#### More recent events

Examples I cited were:

- Our concern that in the run up to the latest year-end, Barclays was not fully transparent with us about the RWA impacts of a proposed extension of model approaches (AIRB and IMM) applied in Barclays Capital Inc. Ultimately, we felt that the need for us to unpick the real impact of these proposed changes caused unnecessary friction and burdened our internal processes.



- Protracted communication between ourselves and Barclays about your desire to move index hedges of own credit from the trading book to the banking book, with the impact of materially reducing RWAs. In this case, after the initial outcome was not resolved in Barclays' favour, our team felt that Barclays continued to argue for capital optimisation in a way which inefficiently used up our resource and goodwill.
- The confusing and potentially misleading impression created by Barclays' initial presentation of its position under the EBA stress tests, which appeared to be an attempt to leave FSA senior management with the impression that Barclays would be above the then intended 10% CT1 threshold, whereas at the relevant date of September 2011 it was actually at 9.8%. In fact given that the eventually chosen 'pass mark' was 9%, this did not turn out to be of crucial importance. But it nevertheless left our senior management with an impression that Barclays were seeking to 'spin' its messages in an unhelpful fashion.

I also mentioned at our meeting the recent publicity in relation to Barclays UK tax management. I recognise that since adequate provisioning had been put in place, this was not a regulatory issue per se. But as I know you recognise, and whatever the extent of advice which Barclays received in advance, the net impact has clearly been unfavourable to the degree of external trust in Barclays' approach to issues such as tax, regulation and accounting.

Clearly these examples vary in both currency and importance. And it is of course acceptable for a bank to argue for a favourable approach on any one specific issue, even if the regulator does not immediately agree. But the cumulative effect of the examples set out above has been to leave us with an impression that Barclays has a tendency continually to seek advantage from complex structures or favourable regulatory interpretations. These concerns are sufficiently great that I felt it was appropriate to communicate them directly to you, and to urge you and the Board to encourage a tone of full co-operation and transparency between all levels of your Executive and the FSA.

I know from our conversation that you take these issues seriously.



Yours sincerely,  
Adair

Adair Turner

Enc.





Marcus Agius  
Chairman

1 Churchill Place  
London  
E14 5HP



Lord Turner  
Chairman  
Financial Services Authority  
25 The North Colonnade  
London  
E14 5HS

18 April 2012

*Sean Dawe*

Thank you for your letter of 10 April, 2012.

It is a matter of regret for us that you have the concerns outlined in your letter. Barclays has invested significant effort and time in building and improving its relationship with the FSA. It is very important to us to have a strong, open, cooperative and transparent relationship with the FSA and with all of our regulators globally. The Board and I took note of Andrew Bailey's comments in our February meeting and, while he specifically excluded Bob Diamond and Chris Lucas from his comments, it was clear that "tone from the top" is one of the FSA's concerns. Our objective is and has always been to have a strong and mutually beneficial relationship with the FSA and you have my commitment that we will work harder in the future to procure this outcome.

Your letter notes six examples of areas of concern to the FSA and without wanting to prolong the debate on these; I do feel the need to make one or two comments in relation to these specific points.

- With regard to Protium, I believe this has been discussed exhaustively. As you know, we reconfirm that our objective at the time was to change the repayment profile and maximize shareholder value. As it turned out, this is exactly what occurred. As you note, this was done within accounting rules and with no regulatory capital advantage and with explicit FSA approval.
- The monoline CVA positions from 2009 represent a highly subjective area where we are and were aware of at least one other major European based bank which had valuations very similar to Barclays. As you note, these valuations were within the acceptable spectrum. Time and markets have proven these to be less aggressive than suggested.
- On the more recent experience of the run up to year-end, we recognise that we asked a lot of your team with regard to model approvals. These were waiver


requests which came about later than expected but they were necessary given the late changes to our capital guidance at year end via the FPC to FSA. A guideline of 10% was moved to 10.30% at the very end of the year and so the criticality of these model approvals was paramount for us. We greatly appreciate the time and effort contributed by your team to facilitate these reviews.



- The discussions surrounding the index hedges of own credit were protracted because we had very strongly held views. Of course, the FSA has the ability to set rules and we respect the outcome of those discussions.
- We believe the concern you mention regarding capital stress tests refers to two separate but parallel requests from last year to assess the effect of EBA capital definitions: 1) an FSA request to ascertain whether 10% CT1 could be achieved by mid-2012 using a constant balance sheet and Basel 2.5 for December 2011 and 2) an EBA stress test request to estimate CT1 for June 2011 assuming the early adoption of Basel 2.5. Although both requests were related, we thought we were clear where differences existed in our responses because of the slightly different requests. We did not intend to mislead in any way and we will ensure that we communicate more clearly in the future.

Finally with regard to the UK tax issue, we fully understand the potential damage to our reputation. On the other hand, as tested recently through a third party review, our tax procedures are robust and sound but no procedure can guard against retroactive tax law changes. We acknowledge that this is not a comfortable place for us to be. Despite our voluntary disclosure to HMRC of the transactions, they did not inform us of their intention to change the law.

I appreciate your taking the time to write. I can assure you that the points you have raised have my full attention as well as the Board's. We are committed to ensuring the full co-operation of all levels of our Executive when engaging with the FSA and we take these matters very seriously, particularly as they relate to the transparency and openness of our interactions.

*Yours sincerely,*  


Marcus Agius